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Attorneys for Plaintiff  
United States of America

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
BRIAN WHITWORTH,  
  
Defendant.

CASE NO. 1:22-CR-00222-ADA-BAM

STIPULATION REGARDING EXCLUDABLE  
TIME PERIODS UNDER SPEEDY TRIAL ACT;  
ORDER

DATE: October 11, 2023  
TIME: 1:00 p.m.  
COURT: Hon. Barbara A. McAuliffe

**BACKGROUND**

This case is set for a status conference on October 11, 2023. This Court should consider the following case-specific facts in finding excludable delay appropriate in this particular case under the ends-of-justice exception, § 3161(h)(7) (Local Code T4). If continued, this Court should designate a new date for the status conference. *United States v. Lewis*, 611 F.3d 1172, 1176 (9th Cir. 2010) (noting any pretrial continuance must be “specifically limited in time”).

**STIPULATION**

Plaintiff United States of America, by and through its counsel of record, and defendant, by and through defendant’s counsel of record, hereby stipulate as follows:

1. By previous order, this matter was set for a status conference on October 11, 2023.
2. By this stipulation, defendant now moves to vacate the status conference, to schedule a change of plea on October 30, 2023, and to exclude time between October 11, 2023, and October 30,

2023, under 18 U.S.C. § 3161(h)(7)(A), B(iv) [Local Code T4].

3. The parties agree and stipulate, and request that the Court find the following:

a) This case is ready to be resolved pursuant to a plea. There is no need for a further status conference in this case. Counsel for defendant desires additional time to consult with his client about the plea one more time before the defendant signs the plea.

b) Counsel for defendant believes that failure to grant the above-requested continuance would deny him the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

c) The government does not object to the continuance.

d) Based on the above-stated findings, the ends of justice served by continuing the case as requested outweigh the interest of the public and the defendant in a trial within the original date prescribed by the Speedy Trial Act.

e) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161, et seq., within which trial must commence, the time period of October 11, 2023 to October 30, 2023, inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv) [Local Code T4] because it results from a continuance granted by the Court at defendant's request on the basis of the Court's finding that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial.

4. Nothing in this stipulation and order shall preclude a finding that other provisions of the Speedy Trial Act dictate that additional time periods are excludable from the period within which a trial must commence.

IT IS SO STIPULATED.

Dated: October 4, 2023

PHILLIP A. TALBERT  
United States Attorney

/s/ ARIN C. HEINZ  
ARIN C. HEINZ  
Assistant United States Attorney

1 Dated: October 4, 2023

/s/ ROBERT LAMANUZZI

ROBERT LAMANUZZI

Counsel for Defendant

BRIAN WHITWORTH

4 **ORDER**

5 IT IS SO ORDERED that the status conference set for October 11, 2023, is vacated. A change of  
6 plea hearing is set for **October 30, 2023, at 8:30 a.m. before District Judge Ana de Alba**. Time is  
7 excluded pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv).

8 IT IS SO ORDERED.

9 Dated: October 4, 2023

/s/ *Barbara A. McAuliffe*

UNITED STATES MAGISTRATE JUDGE